

**401 KAR 42:060. UST system release response and corrective action for UST systems containing petroleum or hazardous substances.**

RELATES TO: KRS 224.01, 224.10, 224.40, 224.43, 224.46, 224.60, 40 C.F.R. Part 280 Subpart F, 42 U.S.C. 6991-6991c

STATUTORY AUTHORITY: KRS 224.10-100, 224.60-105, 224.60-137

NECESSITY, FUNCTION, AND CONFORMITY: KRS 224.10-100 requires the cabinet to develop and conduct programs that provide for the prevention, abatement, and control of contaminants that may threaten the environment. KRS 224.60-105 requires the cabinet to regulate underground storage tanks by requiring registration, minimum construction and performance standards, leak detection, recordkeeping, release reporting, corrective action, closure, financial responsibility, and other requirements to protect public health and the environment. KRS 224.60-105(3) requires the cabinet to establish a regulatory program that implements federal requirements for UST systems. This administrative regulation establishes the requirements for UST system release response, site characterization, corrective action, and public participation.

Section 1. 1. General Requirements. General requirements shall be as established in 40 C.F.R. 280.60.

Section 2. Initial Response. Initial response requirements shall be as established in 40 C.F.R. 280.61.

Section 3. Initial Abatement Measures and Site Check. (1) Requirements for initial abatement and site check shall be as established in 40 C.F.R. 280.62 and 280.63.

(2) The following documents shall be used to meet the requirements of subsection (1) of this section:

- (a) Release Response and Initial Abatement Requirements Outline;
- (b) Site Check Outline;
- (c) Site Check Report Form, DEP 6082;
- (d) Vapor Intrusion Building Assessment, DEP 0058; and
- (e) Vapor Intrusion Assessment, DEP 0057.

Section 4. Free Product Removal. Removal of free product shall be as established in 40 C.F.R. 280.64.

Section 5. Investigations for Soil and Groundwater Cleanup. (1) Investigations for soil and groundwater cleanup shall be as established in 40 C.F.R. 280.63 and 280.65.

(2) The following documents shall be used in meeting the requirements of subsection (1) of this section:

- (a) Site Investigation Outline;
- (b) Over-Excavation Report Form, DEP 4067; and
- (c) Site Investigation Report Form, DEP 8049.

(3) Owners and operators shall undertake, as directed in writing by the cabinet, corrective actions necessary to ensure all domestic-use wells, domestic-use springs, and domestic-use cisterns impacted by a release from a regulated UST system meet the maximum contaminant levels specified in 401 KAR Chapter 8, applicable to the regulated substance stored.

Section 6. Corrective Action Plan. (1) Requirements for a corrective action plan shall be as established in 40 C.F.R. 280.66.

(2) The following documents shall be used to meet the requirements of subsection (1) of this section:

- (a) Corrective Action Outline;
- (b) Over-Excavation Report Form, DEP 4067;
- (c) Corrective Action Report Certification, DEP 5040; and
- (d) Corrective Action Monitoring Report Form, DEP 8045.

Section 7. Public Participation. Public participation shall be as established in 40 C.F.R. 280.67.

Section 8. Extensions. (1) The owner or operator of a UST system may request an extension to a deadline established by this administrative regulation or established by the cabinet in writing pursuant to this administrative regulation.

(2) The extension request shall be submitted in writing and received by the Underground Storage Tank Branch of the Division of Waste Management prior to the deadline.

(3) The cabinet shall grant an extension, if an extension would not have a detrimental impact on human health or the environment.

Section 9. No Further Action Letter. (1) If a UST facility has met all applicable requirements in 401 KAR Chapter 42, the cabinet shall issue a no further action letter.

(2) Any unpaid registration fees due in accordance with 401 KAR 42:200, shall be paid in-full prior to the cabinet issuing a no further action letter.

(3) If a threat to human health or the environment exists, related to a release or permanent closure for which a No Further Action letter was previously issued, the cabinet shall revoke the No Further Action letter and require necessary action in accordance with 401 KAR Chapter 42.

Section 10. Incorporation by Reference. (1) The following material is incorporated by reference:

- (a) "Release Response and Initial Abatement Requirements Outline", November 2016;
- (b) "Site Check Outline", November 2016;
- (c) "Site Check Report Form", DEP 6082, November 2016;
- (d) "Vapor Intrusion Building Assessment", DEP 0058, November 2016;
- (e) "Vapor Intrusion Assessment", DEP 0057, November 2016;
- (f) "Site Investigation Outline", November 2016;
- (g) "Over-Excavation Report Form", DEP 4067, November 2016;
- (h) "Site Investigation Report Form", DEP 8049, November 2016;
- (i) "Corrective Action Outline", November 2016;
- (j) "Corrective Action Report Certification", DEP 5040, November 2016; and
- (k) "Corrective Action Monitoring Report Form", DEP 8045, November 2016.

(2) This material may be inspected, copied, or obtained, subject to copyright law, at the Division of Waste Management, 300 Sower Boulevard, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. This material is also available on the Division of Waste Management's Web site at <http://waste.ky.gov/ust>. (17 Ky.R. 1643; eff. 12-19-90; Am. 22 Ky.R. 323; 921; eff. 11-14-95; 32 Ky.R. 2121; 33 Ky.R. 465; 739; eff. 9-13-2006; 37 Ky.R. 2704; 38 Ky.R. 269; 523; eff. 10-6-11; TAm eff. 7-8-2016; TAm eff. 12-21-2016.)